

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

CEDRIC STEWART,

Petitioner,

v.

DIRECTOR, TDCJ-CID,

Respondent.

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Case No. 6:20-cv-24-JDK-JDL

**ORDER DENYING MOTION TO APPEAL *IN FORMA PAUPERIS***

Before the Court are Petitioner Cedric Stewart's two motions for leave to appeal *in forma pauperis*. Docket Nos. 36, 37. On June 16, 2021, the Court dismissed this petition for a writ of habeas corpus with prejudice and denied a certificate of appealability. Docket No. 33. Petitioner has filed a notice of appeal of the dismissal. Docket No. 35.


Under Federal Rule of Appellate Procedure 24(a)(3)(A), an appellant is ineligible for *in forma pauperis* status if the Court certifies that the appeal is not taken in good faith. An appeal is not taken in good faith where the district court finds no "legal points arguable on the merits." *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983), *reh'g denied*, 719 F.2d 787 5th Cir. 1983).

For the reasons explained in the Report and Recommendation (Docket No. 25) and the Order Adopting the Report (Docket No. 33), the Court hereby **CERTIFIES** that Petitioner's appeal is not taken in good faith, as Petitioner presents no non-frivolous issues of appeal. *See Baugh v. Taylor*, 117 F.3d 97, 202 (5th Cir. 1997) (stating that "to comply with Rule 24 in this regard, it often may suffice for the district

court to incorporate by reference its decision dismissing the prisoner's complaint on the merits with or without supplementation, as the trial court deems appropriate, to fully apprise us of the reasons for its certification."); *see also Johnson v. Mejia*, No. 3:14-cv-909, 2014 WL 2938081 (N.D. Tex. June 27, 2014) (applying *Baugh* to a habeas petition). The record shows, and the Court has so found, that Petitioner has not set out a substantial showing of the denial of a federal right and thus is not entitled to the issuance of a certificate of appealability. *See United States v. Delario*, 120 F.3d 580, 583 (5th Cir. 1997) (denying *in forma pauperis* status on appeal where the petitioner failed to make a substantial showing of the violation of a constitutional right).

Because Petitioner's appeal is not taken in good faith, the Court hereby **DENIES** Petitioner Cedric Stewart's motions for leave to proceed *in forma pauperis* on appeal (Docket Nos. 36, 37).

So **ORDERED** and **SIGNED** this **26th** day of **August, 2021**.

  
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JEREMY D. KERNODLE  
UNITED STATES DISTRICT JUDGE